



Customer Proprietary Network Information

In 2007, the Federal Communications Commission ("Commission") released a *Report and Order* modifying its customer proprietary network information ("CPNI") rules. CPNI is defined as "(A) information that relates to the quantity, technical configuration, type, destination, location, and amount of use of a telecommunications service subscribed to by any customer. . . ; and (B) information contained in the bills pertaining to telephone exchange service or telephone toll service received by a customer" It includes the time, date, duration and destination number of each telephone call, the list of optional call-related features to which a customer subscribes, and any other information that appears on the consumer's telephone bill except name, address and telephone number.

These modified rules are now in effect.

One of the rule modifications requires telephone providers ("Providers") to file with the Commission on or before March 1 of each year, beginning in 2008, a CPNI certification in which an officer of the filing entity must certify that the entity's operating procedures ensure compliance with the Commission's CPNI rules. The certification must be accompanied by a statement explaining how the company's procedures ensure compliance with the Commission's CPNI rules.

On January 29, 2008, the FCC's Enforcement Bureau released a public notice providing a suggested template and filing procedures for CPNI certifications. (The public notice is attached for your convenience.) In spite of the release of the public notice, use of the Bureau's suggested template is not mandatory, and neither the Bureau nor the Commission has provided a recommended template for the explanatory statement that must accompany the certifications. Therefore, filing entities are on their own to draft statements sufficient to demonstrate compliance with the Commission's CPNI rules.

CPNI obligations include:

- **Basic CPNI Requirements:** Providers must protect against unauthorized disclosure of customers' CPNI and may only use CPNI for providing or marketing the services from which the information is derived, unless the provider obtains consent from the customer. Before obtaining consent from a customer, a provider must notify the customer of the customer's right to restrict use of, disclosure of, and access to that customer's CPNI.
- **Internal Procedures:** Providers must have internal procedures to clearly establish the status of a customer's approval prior to the use of CPNI.
- **Carrier Authentication Requirements:** Providers are prohibited from releasing call detail information to customers during customer-initiated telephone contact except when the customer provides a password.
- **Notice to Customers of Account Changes:** "Telecommunications carriers must notify customers immediately whenever a password, customer response to a backup means of

authentication for lost or stolen passwords, online account, or address of record is created or changed. This notification is not required when the customer initiates service, including the selection of a password at service initiation."

- **Notice of Unauthorized Disclosure of CPNI:** Reports of CPNI breaches are to be made electronically within 7 days to the US Secret Service and the FBI through a central reporting facility. That reporting facility may be accessed at <https://www.cpnireporting.gov>. Providers may not notify customers of a breach until *after* the 7 day period in which they are to notify law enforcement. Further, law enforcement may order the provider to delay disclosure to customers for 30 days or longer at the discretion of the agency.
- **Joint Venture and Independent Contractor Use of CPNI:** Providers must obtain opt-in consent from a customer before disclosing a customer's CPNI to a provider's joint venture partners or independent contractors for the purposes of marketing communications-related services.
- **Annual CPNI Certification:** Providers must file with the Commission an annual certification, including an explanation of any actions taken against data brokers and a summary of all consumer complaints received in the previous year regarding the unauthorized release of CPNI.
- **Enforcement Proceedings:** Providers are required to take reasonable measures to discover and protect against pretexting.
- **Business Customer Exception:** The FCC permits providers to bind themselves contractually to authentication frameworks that differ from the FCC's CPNI regulations for services they provide to business customers that have a dedicated account representative.
- **Call Records:** The FCC doesn't define the terms "Call Records" or "Call Detail Records." The specific term the FCC uses and defines is "Call Detail Information." Call Detail Information is defined as "any information that pertains to the transmission of specific telephone calls including, for outbound calls, the number called, and the time, location, or duration of any call and, for inbound calls, the number from which the call was placed, and the time, location, or duration of any call."
- **Authentication:** With respect to online access to CPNI, a provider must authenticate a customer without the use of readily available biographical information, or account information, prior to allowing the customer online access to CPNI related to a telecommunications service account. "Readily available biographical information" includes such things as the customer's social security number, or the last four digits of that number, the customer's mother's maiden name, a home address, or a date of birth." "Account Information" includes such things as account number or any component thereof, the telephone number associated with the account, or amount of last bill."

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